

Appln No. 10/611,753
Response date April 24, 2006
Reply to Office Action of February 23, 2006

REMARKS/ARGUMENTS

Claims 1-6 are pending in this application, of which claims 1 and 4 are independent. In view of the following remarks, Applicant respectfully requests reconsideration and a timely indication of allowance.

Rejections Under 35 U.S.C. § 103(a)

The Examiner has rejected claims 1-6 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Milstead (U.S. Patent No. 5,362,193) in view of what the Examiner refers to as "the admitted prior art." Applicant respectfully traverses this rejection. Claims 1 and 4 are each directed to a method for supporting a frac blender on a transport vehicle "in a manner permitting the frac blender to be moved between an **upper** stowed position and a **lower** operating position along a linear, vertical path" (emphasis added.)

Milstead, on the other hand, discloses moving a plant assembly for producing asphalt from a **lower** stowed position to a **raised** operational position. Specifically, the plant assembly is transported in two sections, an upper subassembly 26 and a lower subassembly 28. As shown, for example in figure 3, in the transport position, the upper and lower subassemblies 26 and 28 are positioned horizontally adjacent to each other. In order to arrange the subassemblies into an operational position, first the upper subassembly 26 is "moved between the **lowered** transport position (FIG. 3) and a **raised** intermediate position as seen in dashed lines in FIG. 8" (col. 4, lines 60-62, emphasis added.) The upper subassembly 26 is then "rolled [horizontally] on the

rollers 92 along the rails 90, 114, to the position immediately above the lower plant subassembly as seen in dashed lines [in FIG. 8.] The two subassemblies 26 and 28 may then be bolted together" (col. 5, lines 59-61.) The connected assembly may then be moved from the connected position of FIG. 8, to the **raised** operational position of FIG. 1 (col. 5, lines 17-32; col. 1, line 63- col. 2, line 9, emphasis added.)

The Examiner contends that the claimed invention is taught by replacing the plant assembly of Milstead with the frac blender of what the Examiner refers to as "the admitted prior art." However, this would result in the prior art frac blender being used contrary to its intended use. As the Examiner points out, the prior art frac blender is mounted on a hinged lift mechanism "allowing the blender to be **lowered** into a working position" (current Office action, page 2.) Such frac blenders are required to be operated at low operational positions in order to allow delivery systems to easily feed additives, such as sand, to the frac blender by use of gravity.

Combining the prior art frac blender with the lifting mechanism of Milstead would result in an operational position of the frac blender, which is much too high off the ground (see the raised operational position in FIG. 1 of Milstead, which is very high off the ground) to be useful as a frac blender. Such an operational position would require unnecessarily expensive and complicated delivery systems to be used to deliver additives to the frac blender.

As such, a combination of the prior art frac blender and the lifting mechanism of Milstead would not be obvious to one of

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skill in the art. However, even if such a combination were obvious, it would result in a frac blender having a raised operational position rather than the claimed lowered operational position.

Consequently, the only reference which discloses, teaches or suggests moving a frac blender from an upper stowed position and a lower operating position along a linear, vertical path is the present application. As such, Milstead and what the Examiner refers to as "the admitted prior art" do not render either claim 1 or claim 4 obvious.

Claims 2-3 and 5-6 depend from claims 1 and 4, respectively. Claims 1 and 4 are now believed to be in condition for allowance over Milstead and what the Examiner refers to as "the admitted prior art". As such, Applicant submits that claims 2-3 and 5-6 are also allowable over Milstead and what the Examiner refers to as "the admitted prior art" as being dependent from an allowable base claim and for the additional limitations they contain therein. Accordingly, Applicant respectfully requests that the rejection of claims 1-6 over Milstead and what the Examiner refers to as "the admitted prior art" under 35 U.S.C. § 103(a) be withdrawn.

In view of the above remarks, Applicant respectfully submits that claims 1-6 are in condition for allowance, and a timely indication of allowance is respectfully requested. If there are any remaining issues that can be addressed by telephone, Applicant invites the Examiner to contact the undersigned at the number indicated.

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Should any additional fees be due, the Commissioner is hereby authorized to deduct said fees from Deposit Account No. 04-1579 (56.0745).

Respectfully submitted,



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Date: 4/24/06

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